342-89 Bill(s)

tation of the agricultural products. Now, the State Government has requested the Central Government to declare the entire stretch of this West Coast Canal as national waterway. In a period of constraints in oil consumption, using this waterway will be more economical. Some preliminary works in this regard have been undertaken by the Government of India, but it has not yet been completed. I request the Government to take urgent steps to declare the West Coast Canal in Kerala as national waterway.

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(vi) **Need to declare the West Coast agency at Hazaribagh, Bihar**

(MOR 377)

[*Translation*]

SHRI BHUBANESHWAR PRASAD MEHTA (Hazaribagh): Mr. Chairman, Sir, Hazaribagh district headquarters which is also the headquarters of the North Chota Nagpur Commissionary has not yet been connected through railway-lines. In the absence of this facility the people of this area face a lot of inconveniences. Ten years ago there was a railway out-agency in Hazaribagh. But even that facility has been withdrawn and this has further aggravated the people's difficulties. They have to go to Hazaribagh Road, Koderma, Dhanbad or Barka Kana railway stations to book tickets for their rail journeys. So, I urge upon the Government to open a permanent railway out-agency in Hazaribagh and to reserve some seats from there in Calcutta, Delhi, Bombay bound trains and for other cities. There should be an arrangement for freight-booking also from that place. These arrangements should continue till that place is connected through railway lines.

13.39 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE

AND

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

As passed by Rajya Sabha — (o

[*English*]

MR. CHAIRMAN: The House will now take up the next Item Nos. 11 and 12.

Shri Girdhari Lal Bhargava—not present.

Shri Sobhanadreeswara Rao 34

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada): Sir, I beg to move:

> "That this House disapproves of the Representation of the People (Amendment) Ordinance, 1991 (Ordinance No. 2 of 1991) promulgated by the President on the 18th April, 1991."

Sir, this Ordinance was issued at the time of Elections to the Tenth Lok Sabha. This Ordinance was issued so that the Elections can be postponed in the State of Jammu & Kashmir. I feel this Ordinance should not have been promulgated because Jammu and Kashmir State has six seats in the Lok Sabha. While three seats are in the Kashmir Valley, two are in Jammu and one in Laddakh. Though it is well understood that the situation in Kashmir Valley is not conducive for holding of free and fair elections, yet the situation is not that bad in the Jammu and Laddakh area. There is no point in postponing elections in these three seats.

Mr. Chairman, Sir, you are aware that the Government had thrown out the Government in Assam led by Shri Prafulla Kumar Mohanta saying

[Sh. Sobhanadreeswara Rao Vadde]

that the law and order situation had gone beyond a reasonable point because of the activities of ULFA. The then Government led by Shri Chandra Shekhar had also thrown out the Government of Shri Karunanidi alleging that the situation in Tamil Nadu was very bad and the LTTE activities were going on unabated; law and order situation had worsened. *(Interruptions)*

MR. CHAIRMAN: No cross talk please. No dialogue like this. Please address the Chair.

(Interruptions)

SHRI SOBHANADREESWARA RAO VADDE: While the then Government thought it fit to dismiss the Government in Tamil Nadu, but the then Government in Tamil Nadu was elected by the people. Of course, at that point of time, Congress (I) Party and the AIADMK Party were not having any alliance and because of that, the DMK Party came to power. Later on they came to some understanding in throwing that Government out on a very small plea. It is most undemocratic. In spite of all that, they preferred to hold elections in Tamil Nadu. The Government had taken all steps to conduct elections in Assam. Even the Government had thought it fit to hold elections in Punjab when several political parties had pleaded that elections should not be held in Punjab because the situation was not conducive for holding of free and fair elections and the real verdict of the people might not come out. But the Government did not pay any heed to that advice and had taken the decision to go ahead with the elections. Of course, postponing of elections just before a few hours of the polls is a different story. What I want to impress upon is that the promulgation of this Ordinance has denied the right of the people of Jammu and Laddakh to elect their representatives to participate in this Tenth Lak Sabha. You could have postponed the elections in the Kashmir Valley for the three Lok Sabha seats. But you have no right to postpone the elections in Jammu and Laddakh area.

From this angle, I have opposed this Ordinance and by promulgating this Ordinance, the inalienable rights of the people are affected very adversely. It is most undemocratic. This Government is issuing the Ordinance unnecessarily and it is against the spirit of our Constitution.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RANGARAJAN KUMARAMANGALAM): Sir, I beg to move:

> "That the Bill further to amend the Representation of the People Act, 1951 as passed by Rajya Sabha, be taken into consideration".

The Bill seeks to replace the Representation of the People (Amendment) Ordinance, 1991 (Ordinance No. 2 of 1991) which was promulgated by the President on 18th April, 1991. In accordance with the provisions of sub-section (2) of section 14 of the Representation of the People Act, 1951, the Election Commission of India recommended the issue of a notification by the President on 19th April, 1991 calling upon all parliamentary constituencies other than those in the State of Jammu and Kashmir to elect members for constituting the Tenth Lok Sabha. The Election Commission recommended issue of a notification separately, in due course, in respect of the parliamentary constituencies in Jammu and Kashmir. The Election Commission had made this recommendation because according to the Commission major political parties had expressed view that the situation at that time was not conducive to the conduct of free and fair elections in Jammu and Kashmir and that special security arrangements were required to be made before elections could be held there. The Commission accordingly proposed fixing up of a separate programme in due course for elections to the parliamentary constituencies in Jammu and Kashmir.

Under section 73 of the Representation of the People Act, 1951, the Election Commission is required to notify the names of the members elected from the different constituencies and upon the issue of such a notification the House concerned shall be deemed to be duly constituted. (*Interruptions*)

SHRI LOKANATH CHOUDHURY (Jagatsinghpur): I am on a point of order. There is no quorum.

MR. CHAIRMAN: Let the quorum bell be rung..........

Now there is quorum. The Minister may please continue.

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SHRI RANGARAJAN KUMARAMANGALAM: In section 73, there is provision only to exclude the results in respect of those constituencies for which poll could not be taken on the date originally fixed or where the time for completion of the poll had been extended by the Election Commission.

Therefore, in order that the President could issue a notification under section 14(2) calling upon all the constituencies, except those in the State of Jammu and Kashmir, to elect new members on 19th April, 1991 and in order that this process could get completed with the issue of 'due constitution' notification by the Flection Commission under section 73, it was necessary to over-ride section 73 of the Representation of the People Act, 1951 suitably, to enable the Election Commission to issue a 'due constitution' notification under that section without taking into account the parliamentary constituencies in the State of Jammu and Kashmir. As the matter was urgent and Parliament was not in session, the Representation of the People (Amendment) Ordinance, 1991 was promulgated by the President on 18th April, 1991. Thereafter, the Presidential Notification, calling upon the constituencies other than those in the State of Jammu and Kashmir, was issued on 19th April, 1991. As the Hon. Members are aware, in the past similar Ordinances were promulgated in the cases of Punjab and Assam.

The holding of elections to the Parliamentary constituencies in the State of Jammu and Kashmir has not yet been decided. Further, in order to ensure the continued availability of the legal basis for the action taken and to be taken, it is necessary, to replace the Ordinance by an Act of Parliament. Hence, the Bill is before the House.

MR. CHAIRMAN: Motions moved:

"That the House disapproves of the Representation of the People (Amendment) Ordinance, 1991 (Ordinance No. 2 of 1991) promulgated by the President on the 18th April, 1991."

"That the Bill further to amend the Representation of the People Act, 1951, as passed by Rajya Sabha, be taken into consideration."

Shri Dharam Pal Singh Malik to speak.

[*Translation*]

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SHRI DHARAM PAL SINGH MALIK (Sonepat) : Mr. Chairman, Sir, I am on my legs to support the proposed amendment in the Representation of the People Act, 1951.

Sir, I very well know it that there is a little scope for saying anything on this amendment. But I would like to say something in regard to the hon. Minister's statement regarding the situation under which this ordinance was promulgated.

[Sh. Dharam Pal Singh Malik]

This ordinance was promulgated during the Chandra Shekhar Government. I support this Bill which has been moved to give that ordinance a shape of Act and to remove legal complications. The elections have been held recently in the country and all the hon. Members might have felt many short-comings. So. I would like to make certain suggestions in this regard.

First of all, I would like to say that during the last elections and all the elections especially held after 1977 many cases of poll-rigging and booth-capturing have come to light. This time there were many places where keeping aside all the legal proprieties booths were forcibly captured and bogus voting was done. So many times it has been suggested in the House that the identity-cards or the multipurpose identity cards should be issued to the voters. Sometime ago the hon. Minister had stated in the Rajya-Sabha that the Government is willing to issue multi-purpose identity-cards. I would like to say that we cannot run this system smoothly unless multi-purpose identity cards are issued to the people. This is regarding Representation of People Act. Through this multi-purpose identity-card bogus votings can be checked out. In this regard, I would like to suggest that there should be a column in that card in which Polling Officer's signatures should be made mandatory. If a vote of a particular voter has been cast without the polling officer's proper signature on his identity-card, the concerned polling officer should be held responsible for this fault so that he may not repeat such a mistake.

Secondly, I would like to say about the non-serious candidates. About reducing the number of such candidates a discussion was also held in the House. I would like to suggest that the amount of security deposit should be increased and some requisite qualifications should be fixed for the candidates. Under the present criteria any person may file his nomination at his will just in order to bring his name in Newspapers and Radio. Such nominations obstruct the election process and thus create many difficulties. De-limitation of increase in constituency has been seized upto the year 2000 after making an amendment in the constitution of India and Representation of People Act. But at present the balancing situation is very bad in this regard. In Delhi there are three and half lakhs voters in Chandni-Chowk constituency whereas in North-Eastern Constituency there are 17 lakhs voters. Such imbalances in the number of voters do not suit the Parliamentary Constituency (democracy) as correct representation does not take place in such a situation. Hence delimitation of the constituencies is must even if the number of the Members in the House is not increased. I think delimitation has not been held since 1970. Every state has made a change in the limit of its Tehsils and Head quarters. This change causes much inconveniences. My Parliamentary Constituency comprises of 5 districts. In such a situation four villages fall under other districts whereas other adjacent villages fall under my constituency. My suggestions should be considered in present situation, with these words I support the Bill that has been presented.

[*English*] 348

SHRI SYED SHAHABUDDIN (Kishanganj) : Mr. Chairman, Sir, I have listened to the hon. Minister very carefully and I must admit that the compulsions of the situation that they have been placed in, irrespective of who is responsible for it and the legal tangle that we have faced, leave us with no option but to pass the Bill which is before us, because it is largely a technical Bill which tries to fill a legal lacuna. Otherwise, Mr. Chairman, I am burdened by the thought that perhaps the very legality of this House might be questioned. Perhaps, in self-interest we are going to pass this Bill.

Mr. Chairman, Sir, at this moment, some sad thoughts come to my mind. It is indeed sad that the people of Jammu & Kashmir which is an integral part of our country are not represented in this House today. We miss their representatives who used to bring their problems before the nation and make suggestions and recommendations for trying to strengthen the bonds that bind the people of Kashmir with the people in the other parts of our country.

Today, we cannot listen to the cries of agony and anguish and we cannot really inform ourselves of their sufferings and the violations of their rights as we could, had they been duly represented in this august House.

Sir, we are faced with a very grim human and political tragedy in Kashmir. Life in the Valley was disturbed and continue to be disturbed. It was disturbed largely as a result of the last Assembly elections. It is no use holding any party or any person responsible for it. But the fact of the matter is that the militants who are now raising the cries of independence —the secessionist forces—are largely the young people who were once upon a time political workers of the various political parties, operating in the Valley.

14.00 hrs.

They felt frustrated. They felt that the ballot did not provide a way out and that the bullet was the only solution. Then, they were tempted and reduced and led into the wayward path and finally, we had this disturbrance. I was told on good authority that many youngmen, who had acted as election agents or polling agents, have now turned into militants. And over and above, Mr. Chairman, we compounded our political follies by creating a total political vacuum in Kashmir. Today, there is no political activity. The political activities have completely come to a standstill. Many of the recognised political leaders in Kashmir, irrespective of whether we agree with their views or not, are behind the bars. Therefore, the situation continues to be disturbed. In 1989, when we held the Lok Sabha elections, we found that they were largely boycotted by them. Of course, I must make a point here that a boycott is one thing, a boycott is optional, while a denial is something else, it is forced on the people. A boycott cannot be a justification for not holding the elections. The people change their mind, it is always possible for political wisdom to assert itself. A lot of people, who had decided to boycott the election in 1989, would have participated in the election had they been held, had we had the courage to hold elections this year. But today, I am of the view, as I said yesterday in the House that we have to nurse the Valley back to health. That will be a very gradual process. I do not think that after having gone through the recent events, the life in the Valley can be normalised immediately in order to enable the elections to be held right away.

But then the question does arise. Why did we not take a total view of the State? We could have held the elections. We could have announced the elections. At the same time, wherever we found specific constituencies disputed where the conditions were not right for holding elections, perhaps the elections there could have been postponed. For example, life was quite normal in Jammu. Life was quite normal in Ladakh. Perhaps it could have been normal also in some parts of the Valley. Perhaps barring one or two highly affected constituencies, in the rest of the State, the elections would have been possible. Therefore, what makes the situation worse is the denial of the representation to the people of Jammu and Ladakh although Jammu and Ladakh are not disturbed in any sense of the term.

SHRI BHOGENDRA JHA (Madhubani): Will it be expedient to hold the elections in Jammu and Ladakh excluding the Valley? *(Interruptions)*

SHRI SYED SHAHABUDDIN : What I have said is this. We should have announced the elections for the entire State. It is possible in any State that you may not be able to hold the elections in one or two given constituencies. If the administration is not in a position to hold the elections, administration can advise that the elections be postponed. That is done in every State. In Bihar, for example, five constituencies are not represented in this House. Therefore, the difficulty should not have been assumed to begin with. That shows the lack of political wisdom. That shows thel ack of political courage.

There is another point in my mind and that is very important. I have maintained on the floor of the House that we in this House, or of the People, represent the people of India. We do not represent a given State. The States are represented in the other House—the Council of States. Therefore, here every constituency stands on its own footing. It has got its own basis and a right of being represented in this House. It is only for administrative convenience, for management purposes, that we hold the elections or give the authority of holding elections to a particular administrative entity that exists. The elections are on a constituency by constituency basis.

The other thing I want to draw your attention to is this.

Section 2 (b) of the Bill says:

> "The Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Jammu and Kashmir separately and in such manner and on such date or dates as it may deem appropriate."

Here we can see that they are speaking for holding elections from Parliamentary constituencies in Jammu and Kashmir separately after determining the manner and the date or dates as it may deem appropriate. How my question to the Government is this: Who is going to take the initiative to determine when the conditions are right for holding elections in Kashmir? Obviously, the Election Commission has no machinery of its own. The Election Commission will seek advice from the Jammu and Kashmir administration or from the Central Government. And the Central Government, depending upon whatever policy it has adopted, whatever it has done in the meantime, whatever steps it has taken to nurse Kashmir back to health, shall be in a position to advise the Election Commission on whether or not the situation has reached the point when elections can be held in the State. We would like the hon. Minister, Mr. Chairman, to take the House into confidence and tell us as to whether or not they are preparing themselves for such an eventuality. What steps have they got in mind and what steps have they taken to create the right political conditions in Kashmir so that elections can be held, as they say, at an appropriate time, which we hope shall not be later than the life of this House? Sir, therefore, the Central Government have to begin preparing themselves. We are going to fill up the lacuane so that we are not thrown out of the House. That is fine but if the Government's intention is that the people of Jammu and Kashmir should be represented in this House at an early date, then the Government must come out with a plan of action and take the House into confidence and let the country and the people of Kashmir know as to what gradual steps have they got in mind for restoring normalcy in the State. Obviously, we cannot wait until the last insurgent has been eliminated. That is never done. Obviously, we cannot wait until all militancy cease to exist. That will never be the case. There will always be some marginal elements: we have to live with them and we will have to bear with them. But we cannot permit them to block the path of democratic rule in Kashmir, care in the way of the representation of the people of Kashmir and to exercise veto power on the political and democratic life of the people of Kashmir. Therefore, the Government has to work this out in terms of a plan of action.

Mr. Chairman Sir, if I am permitted, I would like to make some suggestions in respect of the elements that should go into such a plan of action. I would suggest that recognised political parties, which have taken part in the election in the past and which do not directly support insurgency, should be permitted to function. If some of them are under ban, that ban should be lifted. I would suggest that the cases of political leaders of Kashmir who were office bearers of such political parties or who were Members of the Legislature, either in Kashmir or at the Central level, and who are now behind the bars, should be reviewed and if possible, they should be released. The least you can do is to treat them as political prisoners and not as common criminals, as some of them have been treated. After all, we have to talk to them some day. On some day, we have to seek their assistance, their help, their good will and count or them good sense and wisdom in order to bring life back to normal in the Valley. Sir, I would like to make a very humble suggestion. Some of them have been put in jails all over the country. Why cannot we send them back to the Valley where they can perhaps have a better interchange with others and thus exercise some sort of a moderating influence? After all, a new thinking is arising in Kashmir, it may be very light now. But we can see the beginning of it. And if a certain degree of peaceful interaction is permitted among the political elements, then I think, it is likely to bear good results.

Mr. Chairman Sir, civil liberties must be restored and fundamental rights must be respected. There is no use justifying atrocities in the name of militancy. Militants will be there. Terrorists will be there. But terrorism and militancy cannot justify terrorism and militancy by the State. The State is a creation of law. The State is a legal entity. The State is bound to respect the laws on which it promulgates, particularly a state which is based on the rule of law like ours. Therefore, State terrorism in any sense of the term, simply cannot be permitted, not only from a legal and constitutional point of view, but from a purely political point of view also, because it can only be suicidal, it can only be self-destructive and it can only be counter-productive.

Sir, today in the Kashmir Valley, there is practically no rule of law. No courts are functioning. *Habeas-corpus* petitions of thousands of people are piling up before the High Court. At the last count, the number was nearly 5,000 and the High Court is not in a position to deal with them. An announncement was made by the former Government that the Special Court to review TADA cases would be brought back to Srinagar. This is not yet functioning. Therefore, I would suggest that due process of law should be restored. Rule of law should be established in the Valley and the High Court should start functioning. The Special Court should start functioning in the Valley, in Srinagar itself.

14.12 hrs.

[SHRI P. M. SAYEED *in the Chair*]

The press is under tremendous pressure. So is it in Punjab. But Punjab still enjoys a certain degree of press freedom. I think the Government should think in terms of restoration of press freedom. I would suggest that general political activity, even if it means rallies and demonstrations should be permitted. Let them come out. Finally, there shall come a moment when the inherent sense of order of a community will assert itself. Those terrorists, sessionists and militants cannot possibly arrange demonstrations day after day. They will have

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to stop and people will reject them. On the first day, ten thousand people may join them. On the second day, five thousand may join them. After that, that sort of activity, which serves no useful purpose, will prefer out and come to an end. We should not bar political activity.

The city of Srinagar which I have visited three times in the last two years and the other towns in the Valley are virtually under a state of siege. It looks as if they are a part of a battle field. You find pickets practically at the entrance of every lane or bylane, at every few steps. As I said, the cities being under siege. That creates a psychologically suffocating situation. That creates tension between the people and the security forces. And in that state of tension, sometimes excesses take place. Because, after all our security forces are also human beings. They also react. If something is hurled at them, then they do react. Power is at their command and they may use excessive force. Why should we have such a situation of perennial confrontation on a permanent basis in towns which many days in a week have a completely normal life? Let the security forces concentrate on sealing the border, on controlling and checking infiltration to and from Pakistan on the line of actual control. Let them guard strategic installations. Let them patrol the highways. Let them even cordon off the cities and towns. But within the cities and towns let there be an atmosphere of freedom and let there be an atmosphere of normalcy. Let us not add to tension by such a high profile security arrangement such as we have today. So, one of my suggestions is that the Government should consider bringing down the security profile within the urban and settled areas.

There is also another suggestion. Yesterday, our hon. colleague from CPI(M), Shri Choudhury has made a suggestion about the meeting of the leaders of all the political parties and also about the formation of an advisory committee of MPs belonging to all parties and all regons of our country, to advise the local administration. But more important than that is to change the character of the administration in Jammu and Kashmir. The administration in Jammu and Kashmir, to the people of Kashmir has the look of an alien administration. Mr. Chairman, Sir, you will be amazed if I tell you that of the top 30 officers in the Government of Jammu and Kashmir perhaps only one belongs to Jammu and Kashmir Cadre and all the rest have been imported from the rest of the country. Sir, begets trust, we have got to repose confidence in the people of Kashmir; in the local people who have been in the services; in those for which who have served long the people of Kashmir; who know the people of Kashmir and who are known to the people of Kashmir. Let them run the administration. Administration in todays' world cannot be run on a colonial pattern. It can only be run on a democratic pattern. Therefore, I would suggest let the local element in the administration be revived. Let as many officers as possible in the various cadres of Jammu and Kashmir Government, who have been made dysfunctional be brought back into administration so that this administration which knows the people can fill up the communication gap and can build up the new channels of communication and can perhaps begin a new dialogue; not on the political problem, that is far away, at least on the problems of the people; on the needs of the people; on the development of the state; on their day-to-day life; on corruption and on the inefficiency that they have to face. We should least try to give a clean and efficient administration to the people of the valley even if we cannot immediately resolve the political crisis, even if we cannot completely convince the people of Kashmir that their future lies with us.

Finally, Sir, ULFA was a secessionist organisation—a self-proclaimed secessionist organisation—and yet we announced the general amnesty for ULFA and began talking to them. I don't know to what extent the installation of the present Government in Assam owes itself to the kindness of ULFA, and yet in Kashmir we put condition. I would suggest that we should start a dialogue. We messed up Kashmir and it is our duty to convince the people of Kashmir. These mis-guided youths must be brought back to sanity. Let us sit across the table and talk. Let us tell them that independence is a dream, an impossible dream and politics is finally the game of possibilities. Therefore, we are prepared to talk on the degree of autonomy; on re-shaping the Centre-State relations; on making political adjustments; on giving the right to the people of the valley to manage this affairs, to rule themselves. We are prepared to work out any arrangement, short of lapse of sovereignty, which would satisfy the urges and aspirations of the people of Kashmir.

With this, let us go to the people of Kashmir; make a general declaration; invite all the political groups to come to the negotiating table and I have a feeling that perhaps we can still make a break through. And then perhaps one day in the near future the Government may be in a position to act on part 2 (b) of this Bill. Otherwise, I am afraid that such a day will never dawn; they will never reach the period when they can take a decision that the Election Commission may now take steps to hold parliamentary elections in Jammu and Kashmir. I am sure that the hon. Minister looks forward to such an eventuality as much as I do as much as every Member of the House does so that the people of Jammu and Kashmir join us in this task of managing the affairs of our country; in the task of taking our people forward and in resolving not only the problems of Kashmir but in the problems of the rest of the country.

SHRI CHITTA BASU (Barasat): Mr. Chairman, Sir, I rise to support the Bill. We have been forced to do that. I quite agree with my esteemed friend Shri Shahabuddin that this House is not complete because of the absence of about 30 or 36 Members belonging to the various constituencies in our country. This is a weakness of the vibrant democracy of India. But I also quite appreciate the compulsion of circumstances which forced the earlier Government to come with an Ordinance and which the hon. Minister now proposes to convert into an Act. I have got all sympathy with him.

There is no doubt about the fact that the present situation in Jammu and Kashmir, rather the ground realities in Jammu and Kashmir does not provide any opportunity of holding an election immediately. It will take a long time to create a condition for having a fair and free election for the people of Jammu and Kashmir. So, let us have a look into the ground realities of Kashmir today.

The Governor of Jammu and Kashmir Shri Saxena is on record to say that "Pakistan is conducting a proxy war in Jammu and Kashmir. There has been an influx of trained and armed militants across the line of control. It is estimated that 4000 to 5000 terrorists are active in different parts of Jammu and Kashmir. During the first five months of the current year, 396 attacks were attempted on the security forces. On more than 60 occasions, RPG Rocket Propelled Grenades—were used by the terrorists. The terrorists are shifting their theatre of operation to the rural areas from urban areas. A very strident and heightened efforts are being made by Pakistan to internationalise the situation through diplomacy."

Therefore with these ground realities—I think Shri Shahabuddin may also agree—whether there is any possibility of holding an election now in

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Kashmir. But that does not mean that there should not be any election in Kashmir.

The Governor also made a statement about the new agenda of the new Government in Jammu and Kashmir. The hon. Minister was very active in those days when Rashtriya Morcha Sarkar was there. He was always accusing that Government by pointing his finger at the Rashtriya Morcha Government that they have got no policy on Kashmir. So, have the Kashmir policy. Have the Punjab policy. Now, may I know what is their policy? Is he equally vibrant? Is he equally alive to the realities of Kashmir? Is he equally interested in hammering out the Kashmir policy? This Government has got no Kashmir policy like the earlier Governments. That does not mean I do not absolve of the responsibility of Shri Shahabuddin's party, the responsibility of not having a correct perspective plan or perspective policy on Kashmir.

Now, let us come to the Governor himself. He said: "Kashmir is politically very high on the agenda and in particular how to win the confidence of the people. There will be some initiative to restore the political process, that is the direction in which we want to move. We have to make it clear that we have no intention or policy to settle anything by force of guns." If it is the parameter of the Governor, if it is their new agenda, then I would say the Kashmir should also have these parameters that imperative and essential. That is not merely a question of law and order.

It is fundamentally and basically a political question, a political question in this respect that Jammu & Kashmir belongs to India, is an integral part of India.

Kashmiris have got their own nationalism; we may call it sub-nationalism; Kashmiris have got their own distinct cultures; and nothing should be done which offends the heart, the feeling of sub-nationalism, the feeling of distinctive personality.

This present situation in Jammu & Kashmir is due to a trick in the political stance taken by the Government of India for a long time, from the time of Sheikh Abdullah. I do not like to go into the details. But, at the same time, I find that the Government has not taken any initiative in the matter of beginning a poltical process as has been mentioned in the Governor's Address. Even in the President's Address, it was mentioned that the People's Committees or something like that will be formed; there will be a new initiative to involve the people of Kashmir in the administration. All this was supported by all sections of the House. I want to know from the Minister—of course, he is not present; he is not the Home Minister; he cannot; we would have hoped that the Home Minister is present when this kind of discussion is taking place in this House—what initiative has been taken to restore the political process? I want to know this particularly and specifically from the hon. Minister. We are to make it clear that we have no intention or policy to settle anything by force or guns. We have to implement it; we have to give a shape to this spirit that we do not want to solve the problem with guns, but on some political consideration and by way of political initiative being taken.

Today, I want to remind you what Jawaharlal Nehru said in his speech in the Lok Sabha on August 7, 1952. He made his speech in this very House on Kashmir. I think it is relevant for us to remember. He said:

> "So, while the accession was complete in law and in fact, the other fact which had nothing to do with law also remains, namely, our pledge to the people of Kashmir."

It was not only a question of law and order, but also a question of our pledge to the people of Kashmir. I am sorry to comment on that. It appears that the Government has forgotten about the pledge which was made by Jawaharlal Nehru or other national leaders to the people of Kashmir in respect of their autonomy.

Today, I find that some sections even go on to say that our claim to Kashmir is not only based on the Instrument of Accession but also the right of conquest. There is a feeling, there is a school of thought in this country, there is a political idealogy, which feels that Kashmir is part of India not only because of the Instrument of Accession but also the right of conquest.

There is a book written by Balraj Madhok—Rationale of Hindu State--in which he prefers to maintain that India's claim to Kashmir is not only based on the Instrument of Accession (signed by the Maharaja) but also the right of conquest. He asked me to read out his name; that is why I have read it out.

Therefore, again, they say that Article 370 of the Constitution should be scrapped; the special status now being enjoyed by Jammu & Kashmir, which was in the wisdom of the Constituent Assembly or on account of them, is to be scrapped, is to be given up, is to be abrogated. But they do not at all refer to the existence of Article 371 wherein special status is also granted to some other States in the North-Eastern region. A special status was given to other States also.

AN HON. MEMBER: Andhra also.

SHRI CHITTA BASU: Andhra also. Delhi also; I am sorry. I found somewhere.

They want that Article 370 should be abrogated here and now. But what about Article 371? They did not say about it. Article 371 also provides a special status to other States, like Meghalaya, Nagaland, Arunachal Pradesh and some other North-Eastern States. Therefore, the main question is that a political party or a group of political parties wants that Kashmir should be communalised and the Government is not taking a firm and ideological position in this matter.

I do not like to take much of your time. I feel that the Hon. Minister while replying to the specific points raised by myself and other colleagues of mine will indicate in what manner and when the Government proposes to initiate the political process in Kashmir. That is what I want them to say, and whether political prisoners or persons who have got some political background and who were connected with some political group or other, should be released and given an opportunity of starting political activities within Kashmir, may also be cleared.

Unless that political initiative is taken, unless the political process starts, I think that a situation will never arise when there will be a possibility of having a free and fair election in Kashmir. Without that, we cannot remain a vibrant democracy as we always claim to be and of which we always claim to be proud of.

With these words I support the Bill, with much reluctance, because of the compulsion of circumstances and the Government should come forward and alleviate the situation to take immediate steps to start political process in the State of Jammu and Kashmir.

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SHRI SHARAD DIGHE (Bombay-North Central): Mr. Chairman, I rise to support this Representation of the People (Amendment) Bill, 1991, not reluctantly as the earlier speaker said, but wholeheartedly.

This is a simple Bill converting the Ordinance that was issued in order to remove the lacuna in the provisions of Section 73 of the Representation of the People Act. That Section requires

[Sh. Sharad Dighe]

issuance of a notification regarding the results of the seats of the House of the People and then on publication of that notification this House is said to be constituted, and then only it can function. But as we know, elections could not be held in some states and particularly in Jammu and Kashmir, and therefore unless the Ordinance was issued, this House could not have been constituted. Therefore, in order to complete that lacunā, as I said, the Ordinance was issued and the Ordinance is sought to be converted into a law by this Bill.

Now, the Bill contains not only the filling up of this lacuna, but also provides that in future the Election Commission may take such steps as it may be advised for holding elections in Jammu and Kashmir. And it is from that point of view, the question of holding elections in that State also arises when we discuss this Bill here.

Now I share the concern of the other Members regarding not holding the elections in certain States of this country. Of course it is a matter of concern for any democrat when this House is not represented by certain States, may be for temporarily, but it is not good for our democratic institution that such condition arise in this country. And, therefore, steps should be taken immediately to see that all the States, particularly the State of Jammu and Kashmir, are represented in this House as early as possible. And particularly the Jammu and Kashmir because there is also no elected State Assembly in that State. As a matter of fact, people have been cut off from the Government administration as there are no elected representative either in the State Assembly or in the Lok Sabha.

As the earlier speaker said, there was compulsion of circumstances and therefore, we cannot blame either this Government or the earlier Government for issuing this ordinance. On this background, the problem of solving Jammu and Kashmir also arises. Unless favourable conditions are created in that State for holding elections, there may not be any possibility to get the representatives of that State in this House. As suggested by the earlier speakers, I would also say that early steps in this direction should be taken. Of course, we appreciate that within such a short time, this Government cannot have declared its full policy regarding Jammu and Kashmir because the time had been very short as far as this Government is concerned.

Some indication was made in the Presidential Address regarding the formation of People's Committees, etc. They are welcome steps. I presume that in view of the Budget problems which were before this Government, they must not have been able to address themselves to this problem so early as my earlier speaker wants to suggest. But, Sir, I will also urge upon the Government to look into the problem as early as possible so that elections to this State can be held.

Really speaking, the problem of Kashmir arises out of regional aspirations of the people. I have never believed that Kashmiris at any time desired to join Pakistan or any section of that State also had that desire. It was only a question of regional aspirations. They want to be recognised as Kashmiris and their development problems to be solved. Therefore, this problem will have to be looked into from that point of view.

The hon. Member Shri Chitta Basu has said—it was very relevant—and yesterday also the Home Minister made a reference that there should be no talk about removal of Article 370 in this respect. That will completely damage the relationship between the rest of India and Jammu & Kashmir. The whole regional aspiration is based on Article 370 of our Constitution. Therefore, those who talk about scrapping of Article 370 have not appreciated or understood the real problem of Jammu & Kashmir and they will not be able to find out any solution to it if the talk of Article 370 continues about this State. Therefore, an atmosphere will have to be created to show that we respect the regional aspirations of Kashmir and while living in India they will get full support for their development.

At present, steps are being taken for more and more development of that State. That is also a welcome sign. That is one of the methods of arriving at correct solutions of Jammu and Kashmir. So more and more attention will have to be paid to the development of this State and also for the removal of unemployment which is behind this flourishing of the movement of the militants. Therefore, in order to curtail the strength of the militants, in order to put a check on the growing strength of militants we shall have to concentrate on the further development and early development of Jammu & Kashmir. Therefore, after looking to this problem further steps can be taken to have a political dialogue. At present the problem is that there is a very little political force remaining there. The people are faced with the dilemma of militants on one side and anarchy on the other side or military and police rule on the other side. Therefore, in order to create confidence among the people of Kashmir we shall have to take steps to create atmosphere so that political parties grow which will create confidence among the people that they will stand behind them, they will solve their problems, they will be clean and non-corrupt and that if they are elected or come to power, they will try to help the people rather than resorting to corruption and all other methods. Therefore, that confidence has to be created by public minded people and public-spirited people there and particularly the political parties who would be striving there to show that they would be equally helpful to them in solving their problems and that they need not look to militants for the purpose of solving their problems. At present. atmosphere has been created that on one side there is military and police and the other side militants. Administration is cut off from the people completely. Therefore, even for small things sometimes people have to look to the militants for the purpose of solving their problems. It is because of this that militants are growing. Therefore, we shall have to take note of this fact. It is, no doubt, clear that Pakistan is providing training to the militants. Pakistanis are interested in disturbing the stabilisation of the State. But, at the same time, we should not also ignore this factor that there is absence of political parties, there is absence of any political force, there is absence of public spirited people who can help the masses to solve their problems. This absence is one of the problems for the purpose of Jammu and Kashmir. Therefore, the steps will have to be taken in that direction, giving signals to the militants that this Government means business as far as militants are concerned. Now, unfortunately, the case of Shri Doraiswamy is still pending and there are threats that today his hand will be cut-off and tomorrow other limbs will be cut-off and ultimately the whole body will be thrown. These threats are continuing for such a long time and we have not been able to solve that problem also. So, we shall have to take firm and stern steps so that signals should reach the militants that it is not their day now, but the Government is very serious in eradicating militancy as far as that State is concerned, and providing the people with popular Government in that State and also provide a representation for them in this House. This atmosphere will have to be created as early as possible and I do hope that Government is moving in that direction and soon we shall be able to reach that goal. Therefore, from this point of view, I whole-heartedly support the Bill that is before the House.

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SHRI RAMESH CHENNITHALA (Kottayam): Sir, I rise to support the

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Bill which is moved by the hon. Minister. This Bill is for replacing the Ordinance which was promulgated by the President on 18 April, 1991. As hon. Minister had rightly pointed out, some Ordinances were promulgated earlier also, and this is nothing but a compulsion on the Government.

The atmosphere in Jammu and Kashmir is not at all conducive for conducting elections there. Unfortunately, this august House is not represented by the Jammu and Kashmir State and some other States are also not represented here. Everybody knows that in the present situation an election in Jammu and Kashmir State is not at all possible. Today, I read a newspaper in which it has been reported that the militants in the Jammu and Kashmir observed a solidarity day and hundreds of militants in their dress paraded in the Valley and thousands of people gathered to see the parade of these militants. I do not know what action the Government has taken. This is the situation in the Valley. The militants are parading in the Valley in the uniforms and the police and the security forces are looking at them as merely spectators. At this juncture can we take a lenient view on this? These militants must be dealt with an iron hand.

Shri Syed Shahabuddin mentioned about a political dialogue yesterday. I think that the gun is not an answer to the problem. A political solution must be find out. The militants who are trying to create this type of atmosphere, who are trying to disintegrate the country and who are propagating all these, must be dealt with seriously. Everybody is aware of that. Some political activities are to be started. But it is unfortunate that the Government is not at all taking it seriously.

Yesterday we all said that an all-parties conference should be called and yesterday our hon. Home Minister himself mentioned about the intervention by Pakistan in the Jammu and Kashmir affairs. Sophisticated weapons are being supplied in the Valley. Yesterday I mentioned that training camps are being organised by Pakistan. The political workers are very much afraid in the Valley. Nobody is coming out and they are not at all associating themselves with any political activity. Dialogue is good but how we can initiate a dialogue, that is the main problem which we are facing now.

It is said that the prisoners must be released. Of course, some political prisoners who are put behind the bars can be released so that they can initiate certain political activities. My request to the Government is to think seriously about this.

In the Bill itself it is mentioned that at suitable time the Election Commission will take appropriate action to hold elections. I do not know what action have they been initiating and when will the elections be held. So, some sort of political initiative has to be started.

This House itself has discussed about the electoral reforms. So, apart from taking political initiative, we have to think about the electoral reforms. During Question Hour, the hon. Minister mentioned that the Government is contemplating certain electoral reforms. Our election system has got lot of defects. Booth capturing and other malpractices are going on like anything. So, certain measures must be taken so that this type of activities are stopped.

We all widely discussed that during the time of elections, the non-serious candidates are creating lot of problems. We have to discourage these non-serious candidates by raising the deposit or some other measures should be taken on that account also.

Use of electronic machines also has been discussed here. To make the process of elections more corrective, electronic machines can be used.

Another point that I would like to make is about the funding by the Government. I do not want to go into the details of this. In elections, huge amount of money is spent. Ordinary citizens in the country cannot stand in the elections, only multi-millionaires can stand in the elections because it is very difficult for an ordinary citizen to bear this expenditure. So, funding by the Government is the most important matter which has to be taken up.

Another point which I want to mention is about the similar symbols in the ballot papers. We have seen similar symbols in the ballot papers, which is causing lot of hardship to the voters. Take, for example, burning torch and hand. When these two symbols are simultaneously seen in the ballot paper, voters get confused. So, these similar symbols should be avoided. Same is the case with camel and horse. If they are shown in the same ballot paper, they will create confusion in the mind of the voters.

So, these are my certain suggestions. Of course, I do not want to go into the details but my request to the Government is to take a political initiative, to create a conducive atmosphere in Jammu and Kashmir, so that the voice of the people of Jammu and Kashmir can be heard in this august House. Secondly, the Government must come forward with certain important changes in the Act itself.

[*Translation*] 369

SHRI TEJ NARAYAN SINGH (Buxar): Mr. Chairman, Sir, while I rise to support this Bill, I would like to say that if the Government sincerely wants to bring an improvement in the Kashmir situation, merely amending electoral laws would not help. The people will have to be assured that the Government is there to protect the people and hence their cooperation is a must. The conditions which have been created in the country have made the people suspicious in their thinking. They think that this Government is not doing anything for them. Had sense of security not been there in their minds, they would not have migrated from there. Had the Government created confidence among the people, such a situation would not have been created. Therefore, the Government must take steps to create such an atmosphere that the people could feel that they are a part of India and they have to live in this country and not in Pakistan. I believe that religion is an important part of our culture. Hindus, Muslims, Sikhs, Christians all live in this country. Muslims offer their prayers in mosques. As regards Hindus, they offer their prayers not only inside the temples but also in the fields, which they cultivate. On the day they start transplantation. they stand in the pit and take bath in the field itself. They make earthern statue of God and worship it. This is the extent to which they are religious minded. If the Government starts attacking these beliefs, I do not think it would be helpful in the unity of the country. Some people say that they want to preserve the unity of the country, but I feel that attacking one's religion is, in fact, a step towards disintegrating the country. This is the reason why Kashmiris are getting alienated. Therefore, the Central Government should put an end to such things taking place in the country. If the Government tries to play with Hindu religion, I think Electoral Reforms (Amendment) Bill is not going to be of any use. The culture and religion of the country should be protected. Mere amendment in the law would not help. Tulsidas was the greatest devotee of Rama in the country. When Tulsidas wrote Ramayan. the reign of Babar had come to an end. Ramayan contains no reference to Babar having constructed mosque by demolishing a temple. I do not know what do the people get in playing up this issue. Some people say that Babar converted the temple into a mosque.

[Sh. Tej Narayan Singh]

Their sole objective is to fetch some votes in the name of religion and nothing else. Daily diary of Babar is available even today. Nowhere he has mentioned that mosque was constructed after demolishing the temple. I believe that telling lie is a sin in Muslim religion. According to my knowledge, they do not like to speak lie in the name of religion.

15.00 hrs.

I do not see any reason why Babar should suppress any fact. In spite of that some people are playing politics by dragging his name in it. The result is that this section of our society is alienating from us. Therefore, such forces should be banned. If you fail to do so, you will not be able to keep the country united and the nation will disintegrate into pieces. If you want Kashmir to remain a part of our country, if you want to control, the situation in Kashmir, you should not stop by merely bringing the electoral reforms, you will have to improve the economic condition of the people of the valley. Otherwise it will become difficult to protect them. Even after 42 years of independence, the people of our country continue to be poor. Many of them have not seen even the ballot paper. I do not know whether you are aware of this fact or not, but I know for certain that there are many villages in my constituency, the people of which have not seen the ballot paper till today. Most of these villages belong to Harijans and backward classes. They did not get an opportunity to go to the polling booths so far. The majority of people of about 100-150 villages in my constituency were not allowed to go to the polling booths. I do not want to go into the details, but I want that the Government should set up an agency which should go into the villages and ensure that Harijans cast their votes in the elections. Therefore. the provision of separate booths for Harijans in the electoral law would not suffice. The polling booths for Harijans should be set up at the places of their choice. The Government do put up separate booths for them, but such booths are generally put up in the courtyard of the houses of influential landlords, with the result that the latter capture the booths and seldom allow the Harijans to cast their votes. Therefore, I would suggest that the electoral law should be suitably amended so that the Harijans and weaker sections in the villages may cast their votes.

Secondly, the Election Commission does not deploy police force in sufficient strength at the booths. If 5-10 policemen are sent to the booth, they are hardly any match for 50 odd gun weilding men possessing illegal guns with the result that the latter manage to capture the booths. Therefore adequate security arrangement for the presiding officers and other staff on election duty should be made wherever such booths are set up. Failure to do so would mean depriving Harijans and minorities of casting their votes. Therefore, those who violate the electoral law should be sternly dealt with, The law provides that the election result cannot be declared until repolling is completed. But, of late, we have seen a new procedure being adopted in the matter of counting. The counting takes place and polling trends are available even if repolling is going on. In such cases, action should be taken against the election officers who violate the concerned laws. Failure to do so would create wrong precedents which may prove to be detrimental even to the ruling party some day, beneficial though it may seem to the present ruling party. Hence if you want to set right the electoral system, I would again stress the need for providing deterrent punishment to the officers who violate the election laws so as to protect democracy in the country.

In the end, I would submit that if the Government wants to retain the electoral system, the electoral law needs a number of amendments. If the Government fails to take corrective measures, elections based on muscle power would not last for long. If the voters are prevented from going to the polling booths on the election day and the Government fails to check this malpractice, the people may take recourse to other means because they would think that this country is not for them. Therefore, electoral reforms are the foremost need of the hour. I support this Bill and hope that the hon. Minister would pay attention to my suggestions regarding electoral reforms. That is all I want to say.

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SHRI BASU DEB ACHARIA (Bankura): Mr. Chairman, Sir, due to the postponement of elections in Jammu and Kashmir, the President had to promulgate an ordinance and that ordinance is to be replaced by this Bill. Election could not be held in Jammu and Kashmir along with other States as it could not be held in Punjab also. I take this opportunity to demand that election should be held in Punjab on 25th September, 1991. The Government should not further postpone the elections in that State.

Sir, as the situation was not conducive in Kashmir, the decision to postpone the elections was taken by the Government. We all know the situation under which election was held in 1989 in Jammu and Kashmir: only a very small portion of the voters, that is, about 5 to 10 per cent could exercise their franchise in that election. The situation in Jammu and Kashmir is deteriorating. It is rather grave and complex. I say 'complex' because of the existence of a number of militant groups there. There are groups which are demanding secession of Kashmir: there are groups which are demanding merger of Jammu and Kashmir with Pakistan. There is a group called. 'Ijmul Mujahideen' and their demand is merger of Jammu and Kashmir with Pakistan and the Jammu and Kashmir Liberation Front is demanding for an independent Kashmir. So, there is a need for demarcation among these groups. The main attack of this Government and the earlier National Front Government which we were supporting, is against the Jammu and Kashmir Liberation Front and not against the group which is demanding the merger of Jammu and Kashmir with Pakistan. I feel that there is a need for starting the political process in the State because deployment of the Army is not a solution. If the Government thinks that by the deployment of armed forces, they can solve the problem of Kashmir, then they are wrong. The people of Kashmir had shed their blood and made sacrifices and decided to be with us. Even 50 years after they had decided to be with us, why should there be a feeling of alienation? We should ponder over as to why there is such a feeling of alienation among the people in Kashmir. The question is not separation of a portion of our land but it is of unity and integrity of our country. We feel, the political process should immedately be started.

The Central Government has not spelt out its policy towards Kashmir. Yesterday while replying to the debate on another Bill on Jammu and Kashmir, the Home Minister said that he would be planning to visit Kashmir to meet the people. Visiting Kashmir by the Home Minister will not solve the problem unless the political parties which have some root—say Congress-I and National Conference, unfortunately our Communist Parties are weak in Kashmir—can start their political activities. In those areas where these Parties have their strength that can be freed from the activities of the militants. The Government should think over this matter.

A suggestion also came yesterday and today also from various Members that advisory committee with sufficient powers should be constituted. It should not be like the advisory committee which does not meet even once as the Punjab Advisory Committee. The National Front Government took some initiative though the result was not so much satisfactory. But it constituted at least a committee to visit the areas to meet the people to assuage the feelings of the people. Such type of

[Sh. Basu Deb Acharia]

advisory committee should be constituted with all political paties and this committee should visit Kashmir, meet the people of Kashmir and try to understand their feelings and to inter-act with the people of Kashmir. The Government can think over this matter.

The feeling of alienation is there. They want the identity of the people of Kashmir. But then, there is the question of abrogation of article 370 which is demanded by Bhartiya Janata Party. We, the left Parties, particularly our Party have made our position very much clear that we are for article 370 in the Constitution. There are historical reasons why article 370 giving special status to Jammu and Kashmir is there in the Constitution. If article 370 is abrogated, then the people from other parts of the country with money can go and settle there. Then, the identity for which the people of Kashmir are fighting will be lost.

The migration of minority and majority communities started when Shri Jagmohan was appointed as Governor. We criticised the action of that Government. The migration of particularly the Kashmiri Pandits started. Their problem should be solved. They are staying in the camps. There are a number of migrants working in different units, in offices. There was some agreement with the Government, the HMT tripartite agreement and that agreement has not been implemented regarding payment of their wages. They were not getting their wages. They were staying in camps in a very precarious condition. These migrants are not only from the minority community but also from the majority community. The problem of the migrants should also be solved.

We want the political activities in Kashmir to be started immediately and conditions should be created and inter-action with the people should be started and the feeling that is there should be assuaged and Government should spell out its policy. Government should demarcate within the different groups of militants, the militants who are for independent Kashmir and the militants who are for the merger with Pakistan.

We know that Pakistan is still interfering with Kashmir. They want to keep the Kashmir problem alive for their own narrow interests. We also know the American imperialism. They are also helping and abetting these militants there.

Pakistan wants to internationalise the Kashmir problem.

So, Government should spell out and Government should take the initiative and constitute an Advisory Committee and should immediately call a meeting of all political parties to discuss the Kashmir problem.

Government must inform the House about the fate of Shri Doraiswamy for the last more than one month. Nobody knows what has happened. The militants are putting conditions. But they are not releasing him.

So, all these should be spelt out, conditions should be created and political activities should be started and Government must take the initiative and should convene a meeting of all political parties to discuss the problem of Kashmir because Kashmir is not the problem of one State alone. It is a problem of the unity and integrity of our country. If Kashmir is separated, it will be a slur on the secular India. That is why, Government should convene a meeting to put a stop to the deteriorating situation in Jammu and Kashmir,

[Translation]

SHRI MOHAN SINGH (Deoria): Mr. Chairman, Sir, this ordinance was promulgated to amend section 73 of the Representation of the people Act 1951, but section 73 says that Lok Sabha must have the representation of the entire country. The amendment has been made through an ordinance under special circumstances, so it is an irony that we are compelled to support it anyhow otherwise the very existence of Lok Sabha and its legality will be questioned.

Mr. Chairman, Sir, so far as the problem of Jammu and Kashmir is concerned, it is not just a problem of law and order. We are sentimentally attached with Kashmir and if this emotional attachment of the rest of India with Jammu and Kashmir is lost. it would not be possible for us to keep Jammu and Kashmir a part of India only with the help of army and para-military forces. The people who want to make the country a Hindu dominated have their vested interests that a little infiltration and interference of pro-Pakistani forces must continue in Jammu and Kashmir. If Pakistani flag is hoisted in some part of the Kashmir Valley on 15th August, they simply have an excuse to travel throughout India with a flag of Hinduism. We want to tell such people that Article 370 of the Constitution of India is not merely an Article, but it was an affidavit of unity of the framers of the Constitution of India. leaders of national movement. and the leaders of the entire population of Jammu and Kashmir who were flighting against the royal order. Nobody has the right to repel it except the Assembly. The people or the government of India did not enter into any agreement with that Government. The national leaders of our country were leading the people of Kashmir. They prepare a document to merge it with India through the principle of co-existence and that document is an affidavit of the feelings of both the parts. By doing way with it the feelings of the people in both parts will hurt. Therefore. I would say that the armed forces and security forces of India can't compel them to stay with India.

Mr. Chairman, at present three forces are very much active there. One is in favour of total annexation of Jammu and Kashmir by Pakistan and the second is in favour of independent existence of Jammu and Kashmir and the third force is in favour of maintaining *status quo* under the leadership of India and want to keep it as an integral part of India. Can't we through a political process, put in some efforts to strengthen the third forces which has faith in the constitution of India and strive for overall development of Jammu and Kashmir just like other parts of the country? Can't we make some efforts for the development of Kashmir? Therefore, political and democratice process should be revived in Jammu and Kashmir as early as possible, and unless we restore the democratic process there, we can't fight out the external intervention and terrorism at public level.

Mr. Chaiman. Sir. it is an ironical situation that neither the condition of Ladakh nor that of Jammu has deteriorated too much. As one of the members has rightly said that the number of miscreants, who are spoiling the atmosphere of the valley is four thousand only. It is what the Governor is also saying. I fail to understand as to why we should deny the democratic rights to the people who want to remain as a part of India and have firm faith in the Constitution of India. due to fear of 4000 people. I would like to say, through you. that this ordinance should take the shape of a law. In our country we have a tradition that the person who had taken up foreign arms against India. was invited by us from abroad and later on he took the oath in the name of unity and sovereignty of India and after adopting the constitution of India. he was appointed the Chief Minister of an Eastern State by the Central Government without consulting the people of that State. We have adopted this process in the past to maintain democracy and unity of India. and we should have no objection to adopt this process even in Kashmir. Therefore,

[Sh. Mohan Singh]

while thanking Shri Rao for giving an opportunity for discussion through this amendment. I would like to suggest the Government that the democratic process should be restored in Kashmir as early as possible and this ordinance when it is replaced by an Act should not continue for ever. We should make efforts, so that the representatives of Jammu and Kashmir also sit over here and find a solution of the problems, and express their views in this House. With these suggestions, I express my thanks and conclude my speech.

[English]

SHRI MANORANJAN BHAKTER (Andaman-Nicabar Island): Mr. Chairman, Sir, I rise to support the Bill. Though the Government is under compulsion to bring this Bill before this House, yet it is also a fact, particularly in the case of Jammu and Kashmir—I am not entering into any controversy, but then, I will have to say that—that there was never such a situation in the past when elections could not be held. Even in 1989, elections were held in Jammu and Kashmir. Some hon. Members mentioned about the low percentage during 1989 elections. I like to say even now, in this present elections, by which this Lok Sabha was constituted, you know about the percentage in different places. *(Interruptions)* It is due to persuasion of wrong policy by the Janata Dal Government in the past that the views of the elected Government were not taken into account for which situation has been deteriorated. I think, Shri Basu Deb Acharia will agree with me when I say that if there is a change of Governor in the State of West Bengal, immediately the entire State or the ruling party in the State will be under fury. In the case of Jammu and Kashmir, when there was a proposal of changing the Governor, it was necessary for the Government at the Centre to consult with the State Chief Minister for the appointment of the Governor. It was not done. And as a result of that, when there was no elected Government, all the anti-social elements the extremists who come from the other side of Pakistan, took that opportunity and now the situation has reached a stage beyond repair and elections could not be held in Kashmir. This is the hard reality.

When I support this Bill I also agree with most of the speakers that only keeping away from these provisions will not be sufficient because all over the country, it is absolutely necessary for the people, whoever they may be, to have the right to exercise their democratic rights and to participate in the democratic polity. As all the Members have suggested, it is absolutely necessary to have a dialogue, to start the political activities, to activise the political parties for more interaction with the people. There is no doubt about it.

At the same time, about Punjab also, it is necessary to create that condition by which elections can be conducted and real representatives of the people can come to this House. There is another point. The purpose of the Representation of People (Amendment) Bill is a very limited one. We find everyday lot of unforeseen problems coming up. What has happended in Bihar during the last election time? How many people were killed? How was there a booth-capturing? We know about it happening in many other parts particularly the West Bengal. *(Interruptions)*

[Translation]

SH. SURYA NARAIN YADAV (Saharsa): Mr. Chairman, Sir, I am on a Point of order. Just now the hon. Member said that there was booth-capturing in Bihar, which is totally false and baseless. I would like to tell the Hon. Member that whenever Government appointed a Commission of an enquiry to look into this matter, it was never proved that there was booth-capturing.

MR. CHAIRMAN: There is no point of order. (*Interruptions*)

[*English*]

MR. CHAIRMAN: There is no point of order. Shri Manoranjan Bhakta, you can continue.

(*Interruptions*)

SHRI BASU DEB ACHARIA: He has to confine his speech to the Bill. Whatever he is speaking is not relevant.

MR. CHAIRMAN: Shri Acharia, if I have to ask the speakers to confine only to the subjects. I think, most of the speakers will have to forgo their rights. Therefore, relevant matters would be there but it may not be directly concerned with the subjects.

SHRI BASU DEB ACHARIA: But rigging in Bihar is not relevant. (*Interruptions*)

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SHRI MANORANJAN BHAKTA: My point is that the conditions to hold free and fair elections are not there. The representation of the People Act must be amended in such a manner that the people can exercise their right without any fear and the real representatives of the people can come and represent them. All parties wanted that there should be free and fair elections. There should not be any difference of opinion on that. (*Interruptions*)

AN HON. MEMBER: Including Tripura.

SHRI MANORANJAN BHAKTA: Yes, including Tripura. But what is wrong with Tripura. Tripura is not outside the country and it is very much inside in our country. I condemn the rigging whether it is in West Bengal or in Tripura. There is nothing wrong. That is why Sir, I request the hon. Minister to particularly consider this point that in an opportune moment he would have to come with amendment to this Bill, by which we have some discussion over electoral reforms. Because, this is absolutely necessary. You have done this in the case of Jammu and Kashmir. In other areas also, there prevails this kind of violence and the conditions are not conducive to hold elections. Then, what will you do? Will you amend the Representation of the People Act and all other relevant laws, everyday like this? In that case, you will find only 300 Members out of 542 Members, in this House. This cannot be done. I request the hon. Minister. who is a good friend of mine to come out with a comprehensive Bill by which all these maladies in our Society can be resolved.

With these words. I support the Bill.

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SHRI P. C. THOMAS (Muvattupuzha): If we go through the Statute Book, we will find that Representation of People Act under Section 73 had been amended several times by adding amendments 73A, 73AA. I am afraid, we have to amend it again for different States. In the last Lok Sabha, i.e. in the 9th Lok Sabha, I remember that there was a similar Bill with regard to Assam and there may be similar others Bills also with regard to other States.

We are very much anguished with regard to the situations that are arising in Kashmir and in other parts of our country. The intention of bringing forward this Bill is only to regularise something which has been done and there is no objection to that and I think nobody has objected. But we are all concerned about the political approach with which they are meeting the problem in Kashmir.

In regard to Kashmir there had been very many suggestions that there

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must be committees, there must be a Ministry or a separate Minister. We have tried all these things. I remember that there was a separate Minister to handle Kashmir affairs, but unfortunately for reasons which we all know he had to quit all of a sudden on a particular day.

Somehow we have not been able to find a solution to the Kashmir problem for quite a long time. It may be because we are not able to take the aspirations of the people of Kashmir into proper consideration. It may be because we are unable to educate them on whatever we have done to the people of Kashmir and to the improvement of Kashmir. We have to go deep into these and we have to find a solution to the problem of Kashmir.

We are all at the dark as to what exactly is the solution. We will call it a political solution; but we are yet to find as to how a political solution could be arrived at in Kashmir. The only way which we can think of is to have discussions with all types of groups, with militants of various type and political parties, if at all there are any left in Kashmir now. I don't know whether there are any political parties which actually have roots in Kashmir. But we have to carry on with the talks.

One thing we have to make certain is that we cannot prolong elections in Kashmir any more. The representatives of Kashmir should come to the House. We are unfortunate that we don't the representatives from some of the States here. We must somehow put an end to this and some kind of a time-limit should be put on the period to which it can be prolonged.

I have also moved an amendment and the gist of my amendment is only to see that the Election Commission is not given a free hand to prolong the elections. Upto the an appropriate time it can be done but some kind of a time-limit has to be placed. That is exactly what I have moved through my amendment.

I may also add that we have to take the world bodies' co-operation. The UN is there and the SAARC is there. We have to take the co-operation of these world bodies because we are sure that there is foreign aid coming to Kashmir and we have to stop that. Unless we stop the foreign aid which is being given to the militants or to the extremists in Kashmir, we will find it difficult to find a solution to the problem and that is what we have heard from the statement of the hon. Minister of Home last day.

My only submission is that let us all try to find a solution to the Kashmir problem. What we can do at this stage is to come together at least in aspects on which we can come together. We find that there is for example BJP. I am not naming any political party, but I don't think anyone will oppose it. Nobody from that party is here; they have walked out permanently! Anyway, it is true that the people in Kashmir have some fears. The secularism which we followed is now finding some sort of a threat from political parties which are coming up like anything. Probably the help given by other parties at various stages or probably the wrong steps taken by some of the parties which also do not actually support them in any way have been instrumental to their coming up. So my humble submission is that at least those parties which are present here together can come to a consensus on various aspects. We should come together and also stand united whether we are left or right. Unless we are able to stand united for so important causes which affect our national integrity, I think we will not be able to find any solution to our problems.

I appeal to my Leftist friends and the friends from Janata Dal and other parties to be more co-operative on issues. Only if we still come closer together, we can fight and thereby we can find solutions to these problems which otherwise will be totally at a failure.

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SHRI E. AHAMED (Manjeri): Mr. Chairman, Sir, I support the Bill moved by the hon. Minister. I am also broadly in agreement with the views given expression to, by the hon. Members on both the sides of the House on this burning issue of Kashmir.

Kashmir is not only an issue which we should view in a strict sense of technicalities. We should take it as, many a political issue before the nation. If I remember correct, it was the Father of the Nation, Mahatma Gandhi who in 1947 described Kashmir as 'the beacon light in the midst of surrounding darkness'. I do not know what we should call Kashmir now. Who are responsible for this issue, is a matter which I leave for the history.

In fact, all of us feel—the entire country feels—that Kashmir should remain with India as an integral part, because Kashmir is an integral part of our country. Kashmir also owes this nation, one of the most important factors—the secular factor. Kashmir strengthens the secular fabric of this country. As such every Indian feels that Kashmir is an integral part of our country. At the very same time, I venture to say that we should also consider Kashmir as a part of India and Kashmir should also have the real enjoyment of civil and constitutional rights that every Indian is enjoying in this country.

We have Article 370 in our Constitution which provides a special status and those who advocate the abrogation of that Article, according to me, are not doing any service to this country.

We cannot go back on the commitment that the founding fathers of our nation have given to the people of Kashmir. We cannot forget the fact that this nation has a commitment to the people of Kashmir. We have committed several mistakes—commissions and omissions. This is the time for us to give a healing touch to this problem. We cannot just tell the people of Kashmir some nice words; but we should also show by some good deeds that we are sincere, as far as that part of our country is concerned.

I may say that Kashmiri psyche should be respected. There is absolutely nothing wrong in it. In a nation like India where multi-religious and multi-cultural people are living, we have such psyche in different parts of the country. If you go to Southern States, you will see that the Keralites will have their own psyche; Tamilians will have their own; Andhra people will have their own, etc. One of the hon. Members pointed out inspect of the North-Eastern States what we have done with respect to the psyche of their people. So, why should we not respect the psyche of the people of Kashmir? What is the wrong in it? Therefore, first of all, we must also make it abundantly clear that the entire nation has nothing against that people and that we will always respect their psyche.

Secondly, the masses and the militants should be distinguished. We have to take the civil population into confidence. Unfortunately Sir, there is a confrontation between the civil population and the security forces. It should be ended forthwith because our security forces are there to help the civil population and only to suppress the militants and secessionist activities. And that is the message that the country and the administration should send to the people of the Valley.

Another fact I would like to mention is that the rule of law should be

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established in Kashmir as it is prevalent in all other parts of the country. Kashmir should not be exempted from the purview of the rule of law. Unfortunately the rule of law is not there. We need not just suppress the facts or the realities merely by creating an unreal situation. The people of Kashmir should also be given a feeling that the administration and the country as a whole will always be with them and their civil rights are to be protected.

It is also a duty of our Government and the administration to frustrate all the attempts of the agents of Pakistan and other people who by their nefarious tactics are unnecessarily involving themselves in the affairs of Kashmir and also that of India for which we are to act in a diligent manner and also to take the people of Kashmir into confidence. Only by such method, we will be able to frustrate the designs of the enemies of this country.

I would like to mention about the problems of Kashmiris. The normalisation of the situation cannot be achieved overnight. We have to take certain steps. The first step is to instil confidence in the minds of the people of Kashmir. Secondly, we have also to solve their basic problems. They have the problem of unemployment. They have the problem of lack of educational facilities and basic amenities. The Kashmiris are being neglected by the administration. The majority of the Kashmiris cannot be ignored. We should also take that factor into consideration. What happened in 1980 elections there. I do not want to repeat. I do not want to say who are responsible for that. I also do not want to deal with the subject of what Mr. Jagmohan had done to the people of Kashmir. In the event of the killing of Maulavi Farooq, how many innocent people have been massacred in the State? I do not want to go into all these details. So, the present situation is the culmination of these various factors which we cannot deny. Therefore, it should be the duty of our Government to make an endeavour to diffuse the present situation and take majority of the Kashmiri population into confidence. That was what Mr. Jawaharlal Nehru was doing. That was what Mrs. Indira Gandhi was trying to do throughout her life. I understand that was what Rajiv Gandhi also tried to do. That is what the present Government should also do. Therefore, I fervently hope that we will marginalise the militants and also the secessionist elements. But we should also give the message of confidence, message of goodwill, message of hope to the people of Kashmir forthwith for which we have to initiate a political process. When we initiate the political process, we cannot call some section and keep some other section out of the realm of that process. Therefore, I urge upon the Government to take a pragmatic view of the situation. We must also take a realistic view.

As far as my knowledge is concerned, majority of the Kashmiris have always realised that they are to be a part of the country and continue to live there. But at the same time, it is also our duty to take them into confidence. We must also realise that an ordinary Kashmiri has a desire to lead a happy and peaceful civil life in his own way. It is the duty of the administration to provide that. In tackling the militancy, the administration has done greatest injustice to the ordinary civil population, and that should be avoided. Therefore, I urge upon the Government to take appropriate steps to fulfil the aspirations of the people of Kashmir and also the people of India. Simply speaking will not bring any result. Doing something concrete for the benefit of the people should be the most important thing. Everybody says that bullet will not do anything but only the ballot. But the ballot is a distant dream for the Kashmiris. We must mend our ways and put everything in the right perspective.

With these few words, I conclude my speech.

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SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Chairman Sir, I rise to support this Bill. But Sir, I must make it clear that I support this Bill not with pleasure but with anguish, with reservation and under compulsions. Sir, in this largest democracy of the world, it is not desirable that some States should go unrepresented in the House of People. Of course, I know that this is only a temporary measure and we should try with all sincerity, from all sides, to bring an end to this situation. This is not a happy situation. There is no way out on the part of the Government but to come out with an ordinance of this sort, which is before us in the form of this Bill. The unanimous opinion of the House is that the situation which is prevailing in Jammu and Kashmir not only today but for the past few years, is just not a law and order problem. There is no doubt that law and order problem is also involved in it. But it is not just that; it is beyond that and it is much more than that. Admittedly, it is now a political problem and this political crisis also needs to be solved with the cooperation of the people concerned. To start with, there should be a consensus. One section of the House is insisting on the elimination of Article 370. They should to realise that the secessionist activities are on the increase and when such activities are being abetted, are being instigated by foreign forces along the border, across the border asking for removal of Article 370 is not proper. Precisely speaking, our BJP friends should realise the gravity of the situation and the consequences of their demand of elimination of Article 370. I do not understand as to how our honourable friends from the BJP are insisting on this demand when there is a separate type of situation prevailing in Kashmir right from the beginning, with distinct features in culture, when they have their own way of life, etc. Taking into consideration all these aspects and the overall sovereignty, unity and integrity of our country, our founding fathers of the Constitution had thought of this provision. Why do our friends insist on this demand?

Sir, I have another point to make. How to start this process? Many things have been suggested. I do not like to take much of the valuable time of the House. But I would say that there is a vilification campaign, a campaign of disinformation regarding Kashmir going on outside India, in foreign countries, obviously by Pakistan. Therefore it is for our Government and for the Ministry of External Affairs to rise to the occasion and counter this campaign of disinformation. There are wild allegations of violation of human rights. But it is very gratifying to note that recently, before a month or two, the US Congress have rejected these allegations of violation of human rights altogether. But why should it go so far? Therefore, right from the beginning there should have been a campaign to counter this disinformation campaign in all earnest and to place the real picture in different forums outside India.

Sir, as I said earlier, Pakistan is waging a war, of course, by proxy against India. Obviously, Pakistan is abetting, instigating and encouraging violence on this side of the border, in Jammu and Kashmir and in Punjab. Pakistan should be told in clear terms about the consequences thereof.

Sir, all of us are of the view that political process should be initiated in Jammu & Kashmir as early as possible. All of us know that things deteriorated during the time of Janata Dal. An irreparable damage was caused to the cause of democracy in Jammu & Kashmir, when an elected Assembly was dissolved. The then Home Minister hailed from that very State. There was a Minister of State as well. But they were not satisfied

[Sh. Sriballav Panigrahi]

with that and they had a Minister exclusively for the affairs of Jammu & Kashmir. But the net result was that there was a lot confusion and things deteriorated. Any way, we need not go into all those things of past. It is time to start our efforts for a negotiated settlement. There can only be a negotiated settlement which should of course be within the framework of our Constitution. Therefore, efforts should be started afresh.

I now come to the local administration. Only yesterday, our hon. Home Minister has stated in this House that he would be visiting Jammu & Kashmir shortly. His visit should be followed by a visit of leaders of all parties to interact with the representatives from all walks of life, such as the Bar Association, trade and commerce, social and cultural organisations, political people and last but not least, the common men of Jammu & Kashmir. They should stay there for some time to assure the people of Jammu & Kashmir. The need of the hour is to inspire confidence among the people of Jammu & Kashmir and to create an atmosphere of goodwill and also to tell them clearly that this Government means something good and they are going to attempt very seriously to solve this problem. This process should start immediately.

I do not like to take more time of the House. As you know Sir, Kashmir is very dear to all of us. It must come back to normaicy as early as possible. But nobody has disputed the fact that the first basis for holding elections is that there should be free and fair elections. Neither at that time when the ordinance was promulgated nor at the present juncture, conditions are conducive to conduct free and fair elections in the State of Jammu & Kashmir. Sir, how long can we postpone elections in some parts of the country?

16.00 hrs

With these words, I support the Bill but, as I said earlier, not with pleasure but with compulsion. We all hope that such an unpleasant situation will not exist for long in Kashmir.

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16.01 hrs. Natural Calamity

DISCUSSION UNDER RULE 193

Flood and drought situation in the country

(DUR 193)

[*English*]

MR. CHAIRMAN: Dr. Laxminarayan Pandey is absent. Shri Satya Narayan Jatiya is also absent. Then S/Shri V. S. Rao and Ram Vilas Paswan are also not here. The next man is Shri Chandra Jeet Yadav.

[*Translation*] 392

SHRI CHANDRA JEET YADAV (Azamgarh): Sir, today we are having a discussion on the flood and draught situation in a large part of the country. This is for the first time in the last 4-5 years that a majority of farmers in the country have been affected either by flood or draught. This House has expressed its grave concern several times over this situation. If the State Governments and the Central Government do not take joint action immediately, the current economic crisis in the country could become worse. This is because agriculture still contributes a major share to the country's economic development. Agriculture is the major source of livelihood for a majority of the country's population. Agriculture also contributes to ameliorate the lot of crores countrymen.

In reply to the concern expressed in this House the hon. Agriculture Minister made a statement on the flood and drought situation in the country on August 1. The statement is quite comprehensive in itself. The seriousness of the situation can